

## SENATE BILL NO. 104

INTRODUCED BY GILLAN, GOLIE

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A GRADUATED DRIVER'S LICENSING PROGRAM, WITH MOTOR VEHICLE OPERATION RESTRICTIONS, FOR PERSONS UNDER 18 YEARS OF AGE; AMENDING SECTIONS 61-5-106 AND 61-5-111, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Purpose.** The purpose of [sections 1 through 5] is to create a graduated driver's licensing program that will allow persons under 18 years of age to progressively develop and improve their driving skills in the safest possible environment and that will improve highway safety by reducing the disproportionately high incidence of motor vehicle accidents involving minors.

**NEW SECTION. Section 2. Prerequisites for issuance of driver's license to minor.** (1) The department may issue a driver's license, subject to the restrictions of [section 3], to a person under 18 years of age if the person:

(a) has held an instruction permit or traffic education learner's license for a period of not less than 6 months;

(b) has passed a road test or a skills test, as provided in 61-5-110;

(c) presents written certification from the person's parent or legal guardian that states that the person has had at least 50 hours of driving experience, 10 of which were at night, during which the person was supervised by a parent, a legal guardian, or a person at least ~~24~~ 18 years of age, with the consent of the parent or legal guardian, who had a valid driver's license; and

(d) presents written certification from the person's parent or legal guardian that states that, during the 6-month period immediately preceding application for a driver's license, the person has not been convicted of a traffic violation or convicted of or adjudicated for an offense involving the use of alcohol or drugs and the person has no pending traffic, alcohol, or drug citations.

(2) If a parent or a legal guardian for a person under 18 years of age cannot certify that the person has a 6-month conviction-free record for traffic, alcohol, and drug violations and no pending traffic, alcohol, or drug citations, the department may extend the person's instruction permit or traffic education learner's license for an additional 1-year period or until the person's 18th birthday, whichever occurs first.

(3) (A) The requirements of subsections (1)(a) through (1)(c) do not apply to a person under 18 years of age who has been licensed in another state for at least 6 months and surrenders a valid driver's license from that state.

(B) THE REQUIREMENTS OF SUBSECTIONS (1)(A) AND SUBSECTION (1)(C) DO NOT APPLY TO A PERSON UNDER 18 YEARS OF AGE WHO, AT THE TIME OF APPLICATION FOR A DRIVER'S LICENSE, IS AN ENROLLEE OF A JOB CORPS PROGRAM LOCATED IN MONTANA. THE DEPARTMENT MAY REQUIRE THE APPLICANT TO PROVIDE CURRENT DOCUMENTATION OF THE APPLICANT'S JOB CORPS PROGRAM ENROLLMENT STATUS.

**NEW SECTION. Section 3. First year restrictions on driver's license issued to minor.** (1) A driver's license issued to a person who is under 18 years of age is subject to the following restrictions for 1 year from the date of issuance of the license or until the person is 18 years of age, whichever occurs first:

(a) A restricted licensee may not operate a motor vehicle, required by 61-9-409 to be equipped with seatbelts, unless each occupant of the motor vehicle is wearing a seatbelt, as defined in 61-13-102, or is properly restrained, as required under 61-9-420. The number of motor vehicle occupants may not exceed the number of seatbelts with which the motor vehicle is equipped.

(b) A restricted licensee may not operate a motor vehicle between the hours of 11 p.m. and 5 a.m. unless the restricted licensee is:

(i) accompanied by a licensed driver who is ~~24~~ 18 years of age or older ~~and who is seated in the front seat of the motor vehicle~~ or, if the restricted licensee is operating a motorcycle, the restricted licensee is under the immediate and proximate VISUAL supervision of a licensed driver who is ~~24~~ 18 years of age or older and who is riding with the licensee and is operating a separate motorcycle or other motor vehicle;

(ii) driving to the restricted licensee's place of employment from the restricted licensee's residence, is returning to the restricted licensee's residence from the restricted licensee's place of employment, or is driving in the course and scope of employment;

(iii) driving from the restricted licensee's residence to a school-sponsored event at a school attended by the restricted licensee, including any site for school-provided transportation to and from the event, or is

1 returning from the event or site to the restricted licensee's residence;

2 (iv) driving from the restricted licensee's residence to an event sponsored by a religious organization  
3 or is returning from the event to the restricted licensee's residence;

4 (v) driving for a purpose related to a medical emergency, fire emergency, or law enforcement-related  
5 emergency;

6 (vi) driving for the sole purpose of transporting farm or ranch products, machinery, or supplies within 150  
7 miles of a farm or ranch headquarters; or

8 (vii) an emancipated minor; OR

9 (VIII) DRIVING UNDER A SPECIFIC AUTHORIZATION FOR A SPECIFIC PURPOSE FROM THE RESTRICTED LICENSEE'S  
10 PARENT OR LEGAL GUARDIAN. A PEACE OFFICER MAY VERIFY THE AUTHORIZATION BY CONTACTING THE PARENT OR LEGAL  
11 GUARDIAN.

12 (c) (i) ~~For EXCEPT AS PROVIDED IN SUBSECTION (1)(D), FOR~~ FOR the first 6 months of the 1-year restriction  
13 period, a restricted licensee may not operate a motor vehicle with more than one passenger who is under 24  
14 18 years of age unless:

15 (A) the restricted licensee is supervised by a licensed driver who is at least 24 18 years of age ~~and who~~  
16 ~~is the only passenger in the front seat of the motor vehicle;~~ or

17 (B) the additional passengers under 24 18 years of age are members of the restricted licensee's family  
18 ~~and only one passenger is in the front seat of the motor vehicle with the restricted licensee.~~

19 (ii) ~~For EXCEPT AS PROVIDED IN SUBSECTION (1)(D), FOR~~ FOR the second 6 months of the 1-year restriction  
20 period, a restricted licensee may not operate a motor vehicle with more than three passengers who are under  
21 24 18 years of age unless:

22 (A) the restricted licensee is supervised by a licensed driver who is at least 24 18 years of age; or

23 (B) the additional passengers under 24 18 years of age are members of the licensee's family.

24 (iii) For the first 6 months of the 1-year restriction period, a restricted licensee may not operate a  
25 motorcycle with a passenger who is under 24 18 years of age.

26 ~~(D) A RESTRICTED LICENSEE WHO IS A CURRENT ENROLLEE OF A JOB CORPS PROGRAM LOCATED IN MONTANA~~  
27 ~~MAY OPERATE A MOTOR VEHICLE WITH MORE THAN ONE PASSENGER WHO IS UNDER 18 YEARS OF AGE WITHOUT BEING~~  
28 ~~SUPERVISED BY A LICENSED DRIVER WHO IS AT LEAST 18 YEARS OF AGE IF THE RESTRICTED LICENSEE IS OPERATING THE~~  
29 ~~MOTOR VEHICLE AS PART OF THE RESTRICTED LICENSEE'S JOB CORPS TRAINING PROGRAM.~~

30 (2) For purposes of this section, the term "restricted licensee" includes a person under 18 years of age

1 who holds a motorcycle-only endorsement issued by the department and the term "motor vehicle" includes a  
2 motorcycle, except when otherwise noted.

3  
4 **NEW SECTION. Section 4. Operation of motor vehicle by minor in violation of restricted first-year**  
5 **license -- penalty.** (1) A person whose driver's license is restricted under [section 3] may not operate a motor  
6 vehicle, including a motorcycle, in violation of a restriction imposed under that section.

7 (2) A person convicted under this section shall be ~~fined an amount not to exceed \$500~~ ORDERED TO  
8 PERFORM NOT LESS THAN 20 HOURS OR MORE THAN 60 HOURS OF COMMUNITY SERVICE.

9 (3) Upon receipt of a report of A SECOND OR SUBSEQUENT conviction under this section, the department  
10 shall suspend the person's driver's license for ~~90 days upon a first conviction and for 6 months upon a second~~  
11 ~~or subsequent conviction.~~ A probationary driver's license may not be issued during the period of suspension.

12  
13 **NEW SECTION. Section 5. Education on distracted driving.** (1) The department, in consultation with  
14 the superintendent of public instruction, shall encourage schools providing traffic education to include in the  
15 school's traffic education curriculum information regarding the dangers of physical and cognitive distractions  
16 while driving.

17 (2) To reduce the risks for novice drivers, the department shall include in its publications intended for  
18 novice drivers information concerning the dangers of physical and cognitive distractions while driving, including  
19 but not limited to mental inattentiveness because of stress, fatigue, heightened emotion, conversation with  
20 passengers, stereo or climate control adjustment, food and drink, use of electronic devices, and personal  
21 grooming.

22  
23 **Section 6.** Section 61-5-106, MCA, is amended to read:

24 **"61-5-106. Instruction permits -- traffic education learner licenses and permits -- temporary**  
25 **licenses.** (1) (a) The department may issue an instruction permit, which is valid for 1 year from the date of  
26 issuance, to a person satisfying the age requirements specified in 61-5-105(1) after the applicant has  
27 successfully passed the knowledge test and the vision examination, as provided in 61-5-110. ~~An~~ Except as  
28 provided in subsections (1)(b) and (1)(c), an instruction permit entitles the ~~permittee~~ permitholder, while in  
29 immediate possession of the permit and accompanied by a licensed driver seated beside the ~~permittee~~  
30 permitholder, to drive a motor vehicle other than a motorcycle upon the public highways ~~for a period of 6 months~~

1 ~~from the date the fees required in 61-5-111 are paid.~~

2 (b) If the permitholder is under 18 years of age, the driver supervising the permitholder must be a parent  
3 or a legal guardian of the permitholder or, with the permission of the permitholder's parent or legal guardian, a  
4 licensed driver 21 18 years of age or older. Each occupant of a motor vehicle driven by a permitholder who is  
5 under 18 years of age shall wear a properly adjusted and fastened seatbelt or, if 61-9-420 applies, must be  
6 properly restrained in a child safety restraint.

7 (c) A person holding an instruction permit for a motorcycle may drive a motorcycle upon a public  
8 highway if the person is not carrying a passenger, has immediate possession of the permit, and is under the  
9 immediate and proximate VISUAL supervision of one of the following persons, who must be at least 21 18 years  
10 of age if the permitholder is under 18 years of age:

11 (i) a motorcycle-endorsed licensed driver who is riding with the permitholder and who is operating a  
12 separate motorcycle or other motor vehicle; or

13 (ii) a licensed driver who is operating a separate motor vehicle if the permitholder has successfully  
14 completed a motorcycle safety training course through a cooperative driver testing program certified under  
15 61-5-110.

16 (2) The department may issue a traffic education learner license, which is valid for 1 year from the date  
17 of issuance, to any person who is at least 14 1/2 years of age and who has successfully completed or is  
18 successfully participating in a traffic education course approved by the department and the superintendent of  
19 public instruction AND THAT IS AVAILABLE TO ALL WHO MEET THE AGE REQUIREMENTS SPECIFIED IN 20-7-503 AND  
20 RESIDE WITHIN THE GEOGRAPHICAL BOUNDARIES OF OR ATTEND A SCHOOL IN THE SCHOOL DISTRICT THAT OFFERS THE  
21 COURSE. A traffic education learner license entitles the licensee to operate a motor vehicle only when  
22 accompanied by an approved instructor or licensed parent or guardian and may be restricted to specific times  
23 or areas.

24 (3) (a) An instructor of a traffic education program approved by the department and by the  
25 superintendent of public instruction may issue a traffic education permit that is effective for a school year or more  
26 restricted period to an applicant who is enrolled in a traffic education program approved by the department and  
27 who meets the age requirements specified in 20-7-503.

28 (b) When in immediate possession of the traffic education permit, the permittee may operate on a  
29 designated highway or within a designated area:

30 (i) a motor vehicle when an approved instructor is seated beside the permittee; or

(ii) a motorcycle or quadricycle when under the immediate and proximate supervision of an approved instructor.

(4) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to operate a motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a driver's license. The temporary driver's permit must be in the permittee's immediate possession while operating a motor vehicle, and it is invalid when the applicant's license has been issued or for good cause has been refused.

(5) The department may in its discretion issue a temporary commercial driver's license to an applicant permitting the applicant to operate a commercial motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's right to receive a commercial driver's license. The temporary license must be in the applicant's immediate possession while operating a commercial motor vehicle and is invalid when the applicant's license has been issued or for good cause has been refused.

(6) The department may in its discretion issue a temporary medical assessment and rehabilitation driving permit, as provided in 61-5-120."

**Section 7.** Section 61-5-111, MCA, is amended to read:

**"61-5-111. Contents of a driver's license, renewal, renewal by mail, license expirations, grace period, and fees for licenses, permits, and endorsements -- notice of expiration.** (1) The department may appoint county treasurers and other qualified officers to act as its agents for the sale of driver's licenses receipts. The department shall adopt necessary rules governing sales. In areas in which the department provides driver licensing services 3 days or more a week, the department is responsible for sale of receipts and may appoint an agent to sell receipts.

(2) (a) The department, upon receipt of payment of the fees specified in this section, shall issue a driver's license to each qualifying applicant. The license must contain:

(i) a full-face photograph of the licensee in the size and form prescribed by the department;

(ii) a distinguishing number issued to the licensee;

(iii) the full legal name, date of birth, Montana mailing address, and a brief description of the licensee;

and

(iv) either the licensee's customary signature or a digital reproduction of the licensee's customary signature.

1 (b) The department may not use the licensee's social security number as the distinguishing number  
2 unless the licensee expressly authorizes the use. A license is not valid until it is signed by the licensee.

3 (3) (a) When a person applies for renewal of a driver's license, the department shall conduct a records  
4 check in accordance with 61-5-110(1) to determine the applicant's eligibility status and shall test the applicant's  
5 eyesight. The department may also require the applicant to submit to a knowledge and skills test if:

6 (i) the renewal applicant has a physical or mental disability, limitation, or condition that impairs, or may  
7 impair, the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle  
8 on the highway; and

9 (ii) the expired or expiring license does not include adaptive equipment or operational restrictions  
10 appropriate to the applicant's functional abilities; or

11 (iii) the applicant wants to remove or modify the restrictions stated on the expired or expiring license.

12 (b) In the case of a commercial driver's license, the department shall, if the information was not provided  
13 in a prior licensing cycle, require the renewal applicant to provide the name of each jurisdiction in which the  
14 applicant was previously licensed to drive any type of motor vehicle during the 10-year period immediately  
15 preceding the date of the renewal application and may also require that the applicant successfully complete a  
16 written examination as required by federal regulations.

17 (c) A person is considered to have applied for renewal of a Montana driver's license if the application  
18 is made within 6 months before or 3 months after the expiration of the person's license. Except as provided in  
19 subsection (3)(d), a person seeking to renew a driver's license shall appear in person at a Montana driver's  
20 examination station.

21 (d) (i) A person may renew a driver's license by mail if the person certifies that the person is temporarily  
22 out of state and will not be returning to the state prior to the expiration of the license.

23 (ii) An applicant who renews a driver's license by mail shall submit to the department an approved vision  
24 examination and a medical evaluation from a licensed physician in addition to the fees required for renewal.

25 (iii) If the department does not have a digitized photograph or signature record of the renewal applicant  
26 from the expiring license, then the department may require the renewal applicant to submit a personal  
27 photograph and signature that meets the requirements prescribed by the department.

28 (iv) The term of a license renewed by mail is 4 years, and a person may not renew by mail for  
29 consecutive license terms.

30 (v) The department may not renew a license by mail if the records check conducted in accordance with

61-5-110(1) shows an ineligible license status for the applicant.

(e) The department shall mail a driver's license renewal notice no earlier than 60 days and no later than 30 days prior to the expiration date of a driver's license. The department shall mail the notice to the Montana mailing address shown on the driver's license unless the licensee has submitted a change of address as required by 61-5-115.

(4) (a) Except as provided in subsections (4)(b) and (4)(c), a license expires on the anniversary of the licensee's birthday 8 years or less after the date of issue or on the licensee's 75th birthday, whichever occurs first.

(b) A license issued to a person who is 75 years of age or older expires on the anniversary of the licensee's birthday 4 years or less after the date of issue.

(c) A license issued to a person who is under 21 years of age expires on the licensee's 21st birthday.

(5) ~~Whenever~~ When the department issues ~~an original a driver's~~ license to a person under ~~the age of~~ 18 years of age, the license must be ~~designated and~~ clearly marked as a "provisional license" with a notation that conveys the restrictions imposed under [section 3]. ~~Any license designated and marked as provisional may be suspended by the department for a period of not more than 12 months when its records disclose that the licensee, subsequent to the issuance of the license, has been guilty of careless or negligent driving.~~

(6) Fees for driver's licenses are:

(a) driver's license, except a commercial driver's license -- \$5 a year or fraction of a year;

(b) motorcycle endorsement -- 50 cents a year or fraction of a year;

(c) commercial driver's license:

(i) interstate -- \$5 a year or fraction of a year;

(ii) intrastate -- \$3.50 a year or fraction of a year;

(d) renewal notice -- 50 cents.

(7) Upon receipt of notice from another jurisdiction that a person licensed under this chapter has surrendered a Montana driver's license to that jurisdiction, the department shall change the license status on the person's official driver record to "inactive". If the person returns to Montana prior to the expiration of the previously surrendered license, the department may reactivate the license for the remainder of the license term."

**NEW SECTION. Section 8. Codification instruction.** [Sections 1 through 5] are intended to be codified as an integral part of Title 61, chapter 5, part 1, and the provisions of Title 61, chapter 5, part 1, apply



1 to [sections 1 through 5].

2

3 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2006.

4

5 NEW SECTION. **Section 10. Applicability.** [This act] applies to a person who applies for a driver's  
6 license on or after July 1, 2006, and who is under 18 years of age at the time of the application unless the person  
7 was issued an instruction permit, traffic education learner's license, or traffic education permit prior to July 1,  
8 2006.

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- END -